

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

TRAMAYNE COLFRED WILLIAMS,

Case No. 14-CV-1586 (JNE/TNL)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MARK FRITEL, Sherburne County Jail,

Defendant.

Plaintiff Tramayne Colfred Williams, a state prisoner, commenced this action by filing a complaint seeking relief under 42 U.S.C. § 1983. *See* ECF No. 1. He did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). *See* ECF No. 2. In an order dated June 9, 2014, this Court ordered that Williams pay an initial partial filing fee of \$115.19 within 20 days, failing which it would be recommended that this case be dismissed without prejudice for failure to prosecute. *See* ECF No. 7; Fed. R. Civ. P. 41(b). On June 16, 2014, Williams filed a motion requesting reconsideration, indicating that he was unable to pay this initial partial filing fee as the facility where he was incarcerated—Sherburne County Jail—prohibits prisoners from sending money by mail. *See* ECF No. 8. In response, the Court ordered Williams to file an affidavit and exhibits showing that he had attempted to pay the filing fee, and that jail officials had prohibited him from doing so. ECF No. 9. In the alternative, Williams was given until October 31, 2014, to pay the \$115.19 initial partial filing fee as previously ordered. *Id.*

That deadline has now passed, and Williams has neither filed the affidavit¹ nor paid the required initial partial filing fee. Williams has not communicated with the Court at all about this case since requesting reconsideration in June. Accordingly, this Court now recommends, in accordance with its prior orders, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

[Continued on next page.]

¹This Court notes that Williams is no longer incarcerated at the Sherburne County Jail, and thus the alleged impediment to paying the filing fee in this case no longer exists.

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS**
HEREBY RECOMMENDED that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. Plaintiff Tramayne Colfred Williams's application to proceed *in forma pauperis* [ECF No. 2] be **DENIED AS MOOT**.
3. Williams's motion for injunctive and pecuniary relief [ECF No. 3] be **DENIED AS MOOT**.
4. Williams's motion to reconsider [ECF No. 8] be **DENIED AS MOOT**.

Dated: November 20, 2014

s/ Tony N. Leung

Tony N. Leung
United States Magistrate Judge

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NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **December 22, 2014**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Eighth Circuit Court of Appeals.